



FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
1300 I STREET, N.W.  
WASHINGTON, DC 20005-3315

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**DEC 07 2000**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of :  
John D. Porter, Walter C. Vester and :  
Benedict R. Freeman : DECISION REFUSING STATUS  
Application No. 09/592,683 : UNDER 37 CFR 1.47(a)  
Filed: June 12, 2000 :  
For: CONTROL SIGNALLING AND :  
DYNAMIC CHANNEL ALLOCATION :  
IN A WIRELESS NETWORK :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 17, 2000 (certificate of mailing, October 10, 2000).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

**FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 12, 2000 without an executed oath or declaration and naming John D. Porter, Walter C. Vester and Benedict R. Freeman as joint inventors.

Accordingly, on August 8, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for late filing.

In response, on October 17, 2000 (certificate of mailing, October 10, 2000), the instant petition under 37 CFR 1.47(a); a declaration by non-signing inventor John D. Porter indicating his refusal to sign the declaration; the "Declaration and Power of Attorney" signed by inventors Walter C. Vester and Benedict R. Freeman; the \$130.00 surcharge for late filing and the \$130.00 petition fee were submitted.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (4), as set forth above.

As to item (1), Petitioner has not indicated whether non-signing inventor John D. Porter was presented a copy of the application papers. "[B]efore a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the **application papers (specification, including claims, drawings, and oath or declaration)** to the non-signing inventor for signature." MPEP 409.03(d), emphasis added. Petitioner must show that a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to the inventor, but that the inventor did not respond to or refused the request that he sign the oath or declaration in order to show that the inventor has refused to join in the application.

As to item (4), a separate statement of the inventor's last known address is missing and is required. The listing on the Declaration is not considered an acceptable response to this requirement of 37 CFR 1.47(a). See MPEP 409.03(e).

After this decision is mailed, deposit account No. 06-0916 will be charged the \$130.00 surcharge for the late filing of the oath or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, DC 20231

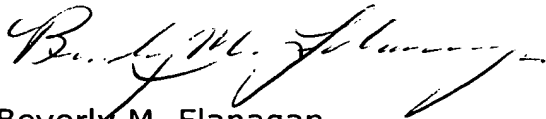
By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.



Edward J. Tannouse  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy